IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.17167 of 2006
Date of decision 23 . 11 .2007

Virander Pal Goyal .. petitioner

Versus

State of Haryana and others .. Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

PRESENT: Mr.RK Malik, Advocate for the petitioner
Ms.Ritu Bahri, DAG Haryana.

M.M.Kumar, J.

This petition filed under Article 226 of the Constitution prays for issuance of a writ in the nature of mandamus directing the respondents to consider the petitioner eligible in age for the post of lecturer in Economics as per advertisement dated 19.6.2006 (Annexure P.5) issued by respondent no.2.

Brief facts of the case are that on 9.1.1995 respondent has taken a decision by exercising the power of relaxation that there would be no upper age limit for appointment of Lecturers in Govt. Aided Private Colleges. It is pertinent to notice that there is no upper age limit for the post of Lecturers in all Universities of the State nor any such thing has been provided by UGC. The Government of Haryana in the year 1999 imposed a blanket ban on regular appointment of Lecturers in Govt. Aided Private Colleges and as such no appointment on regular basis could be made after 1999. This ban was removed in the year 2006. The petitioner is working on contract/ adhoc basis as Lecturer in Economics. The management-respondent no.2 on 19.6.2006 advertised various posts of Lecturers

including one post of Lecturer in Economics . The petitioner being duly eligible has applied for the said post. On 16.10.2006, Government had taken a decision that upper age limit for appointment of Lecturers in Govt. Aided Private Colleges would be 40 years. The management decided to hold interview on 18.11.2006 but the candidature of the petitioner was rejected on the ground that he was more than 40 years of age.

When this petition came up for consideration before motion Bench on 9.11.2006, the following order was passed:

> " The petitioner shall be permitted to participate in the selection process provisionally as we have already held in CWP No.3081 of 2005 decided on 25.9.2006 (tilted as Umesh Kumar and others v. Kurukshetra University, Kurukshetra and others) that in case the petitioners fulfill all other qualifications provided by rules then they should also be permitted to compete, waiving the age restriction imposed for the recruitment. The result of the petitioner shall be kept in a sealed cover and the same be produced before this Court."

Thereafter on 20.2.2007 the petition was admitted and ordered to be heard within a period of three months.

We have heard the learned counsel for the parties and have also perused the proceedings of the Selection held on 18.11.2006 which have been produced in a sealed cover. The Selection Committee has recommended the name of the petitioner for appointment in order of preference . The name of the petitioner is at number one of select list.

Learned counsel for the petitioner submitted that the controversy raised in this petition is squarely covered by a judgement

rendered by a Division Bench of this Court in the case of Umesh Kumar and others v. Kurukshetra University, Kurukshetra and others decided on 25.9.2006 (CWP No. 3081 of 2005) which could not be successfully disputed by the learned State counsel. Accordingly, following the view taken in Umesh Kumar's case (supra), the instant petition is also allowed in the same terms.

(M.M.Kumar)

Judge

23.11.2007
okg